

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RUBEN EDWARD MORA,
Plaintiff,
v.
H. WILLIAMS, et al.,
Defendants.

No. 2:20-cv-0746-KJM-JDP (PC)

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983, raising multiple federal claims. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 21, 2021, the magistrate judge filed findings and recommendations, which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Plaintiff has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a *de novo* review of this case. Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by proper analysis. While *Saddozai v. Davis*, 35 F.4th 705, 708 (9th Cir. 2022), provides that actions may proceed if administrative remedies are exhausted before an operative complaint is filed, plaintiff here did not

1 seek to amend his complaint to plead exhaustion, nor did the court grant leave to amend. The
2 operative complaint is a pre-exhaustion pleading and must be dismissed.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The findings and recommendations filed September 21, 2021, are adopted in full;
5 2. Defendants' motion for summary judgment, ECF No. 34, is granted;
6 3. Plaintiff's claims are dismissed without leave to amend for failure to exhaust;
7 4. Plaintiff's motion for summary judgment, ECF No. 38, is denied;
8 5. Plaintiff's motion for appointment of counsel, ECF No. 46, is denied as moot; and
9 6. The Clerk of the Court is directed to close the case.

10 DATED: October 10, 2022.

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12 CHIEF UNITED STATES DISTRICT JUDGE
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